

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ATAKILTE BERHANE,

Defendant.

CASE NO. CR20-0033-JCC

ORDER

This matter comes before the Court *sua sponte*. On March 4, 2020, Mr. Berhane was charged by indictment with conspiracy to distribute controlled substances and attempting to provide contraband in prison. (Dkt. No. 33.) After a continuance, trial was scheduled for August 3, 2020. (Dkt. No. 51.) As a result of the COVID-19 pandemic's impact in this district, the Government moved to vacate the trial date and set a status conference to determine an appropriate trial date. (Dkt. No. 74.) The Court granted the motion, scheduled a status conference for September 8, 2020, and held that the time between the date of the Court's order and the date of the status conference was an excludable period under the Speedy Trial Act. (Dkt. No. 78.) As a result of the pandemic's continued impact in this district, the Court continued the status conference until October 27, 2020. (Dkt. 84.)

Over the past six months, the COVID-19 pandemic has significantly impacted the Court's operations. (See General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20 each of

1 which the Court incorporates by reference.) Specifically, the pandemic has rendered the Court
 2 unable to obtain an adequate spectrum of jurors to represent a fair cross section of the
 3 community, and public health guidance has impacted the ability of jurors, witnesses, counsel,
 4 and Court staff to be present in the courtroom. (*See generally id.*) Recently, conditions have
 5 improved such that the Court can resume a limited number of in-person criminal jury trials.
 6 Chief Judge Martinez has concluded that:

7 [F]or the foreseeable future, it will be possible to proceed with only one in-person
 8 criminal jury trial at a time at each of the district's two courthouses. The order in which
 9 pending criminal cases will proceed to trial will be determined by the Court in
 10 consultation with the Federal Public Defender's Office and the United States Attorney's
 11 Office.

12 W.D. Wash. General Order 15-20 (Oct. 2, 2020) at 2. Accordingly, the Court SETS this matter
 13 for trial on May 10, 2021. Further, the Court FINDS the ends of justice served by continuing trial
 14 to this date outweigh Defendant's and the public's interests in a speedy trial. *See* 18 U.S.C.
 15 § 3161(h)(7)(A). The reasons for this finding are:

- 16 1. The COVID-19 pandemic has rendered the Court unable to obtain an adequate
 17 spectrum of jurors to represent a fair cross section of the community, which would
 18 likely make proceeding with an earlier trial impossible or, at a minimum, would result
 19 in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 20 2. Public health guidance has impacted the ability of jurors, witnesses, counsel, and
 21 Court staff to be present in the courtroom. Therefore, proceeding with an earlier trial
 22 would likely be impossible. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

23 Accordingly, the Court ORDERS:

- 24 1. Trial in this matter is scheduled for May 10, 2021.
- 25 2. The pretrial motions deadline is March 22, 2021.
- 26 3. All pretrial filings—including trial briefs, motions in limine, proposed voir dire,
 proposed jury instructions, and proposed verdict forms—must be submitted no later

1 than Monday, April 12, 2021.

- 2 4. The period from July 31, 2020, when the Court first granted a continuance based on
3 the impact of COVID-19, until May 10, 2021, is an excludable time period under 18
4 U.S.C. section 3161(h)(7)(A).
5 5. The status conference scheduled for October 27, 2020 is VACATED.

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7 DATED this 14th day of October 2020.

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11 John C. Coughenour
12 UNITED STATES DISTRICT JUDGE
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